IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

1. CENTR.EXCISE APPEAL No. 50 of 2007

HINDUSTAN ZINC LTD.
V/S
ASSISTANT COMMISSIONER

2. CENTR.EXCISE APPEAL No. 51 of 2007

HINDUSTAN ZINC LTD.
V/S
ASSITANT COMMISSIONER

3. CENTR.EXCISE APPEAL No. 52 of 2007

HINDUSTAN ZINC LTD.
V/S
ASSISTANT COMMISSIONER

Mr. DINESH MEHTA for Mr. BC MEHTA, for the appellant / petitioner

Mr. VK MATHUR, for the respondent

Date of Order : 24.10.2007

HON'BLE SHRI N P GUPTA,J.
HON'BLE SHRI MUNISHWAR NATH BHANDARI,J.

ORDER

These three appeals seek to challenge the part of the order Annexure-4 deciding three appeals no. 295, 296, and 297.

By the impugned order, the learned Tribunal below has allowed the credit for inputs but has not allowed the credit for capital goods.

It is contended by the learned counsel for the

appellant that in view of the judgment of Hon'ble the Supreme Court in Vikram Cement Vs. Commissioner of Central Excise reported in 2006(197) E.L.T.145(S.C.), the appellant is entitled to credit for capital goods in these three appeals. It is also contended that in the appeals the contention was raised about the appellant being entitled to credit for input as well as capital goods but the learned Tribunal below has granted credit only for inputs, and has not said anything about the availability of credit for the capital goods.

Learned counsel for the respondent is not in a position to seriously controvert the stand in view of the judgment of Hon'ble the Supreme Court in Vikram Cement's case.

It appears that four appeals were decided together being Appeal No. 295, 296, 297 and 292, and since the Appeal no. 292 did not involve the question of credit on capital goods, and the learned Tribunal did consider only the question in respect of the inputs.

Consequently, these appeals are allowed.The impugned order relating to three appeals no. 295, 296 and 297 are modified in the manner that the appellant shall be entitled to credit on the capital goods as well.

(MUNISHWAR NATH BHANDARI),J. (N P GUPTA),J.

/Sushil/